

REMARKS

Careful examination of the application is sincerely appreciated.

Applicant's claim 3 and specification are amended to address the objections due to a minor informality. Withdrawal of the objection is requested.

According to the Office Action, claims 1 – 6 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,742,047 (hereinafter "Tso"). In response, the rejection is respectfully traversed as lacking the factual and legal basis.

Tso fails to teach or suggest Applicant's feature of "the processing capability of the retrieval device being specified by mode information in the retrieval information" as recited in claim 1. Tso merely discloses "parser 22 selects an appropriate transcode service provider 24 based, for example, on the content type of the data stream." See col. 6, lines 18-20 of the patent. Tso also discloses "a content provider may embed special data fields into the content which categorize or rate the content. In such a case, parser 3 may be configured to scan for these data fields in the content, and cause filtering module 3 to take appropriate action." See col. 6, lines 46-51. But, Tso is completely silent on the above-mentioned feature of Applicant's invention, as recited in claim 1.

According to the binding case law established by U.S. Court of Appeals for the Federal Circuit and its predecessor Court (as interpreted in Section 2131 of the MPEP), to anticipate a claim, the reference must teach each and every element of that claim. As discussed above, Tso is deficient in teaching each and every element of Applicant's claim 1. It is, therefore, respectfully submitted that independent claim 1 is not anticipated by Tso. Withdrawal of the rejection is respectfully requested, as it cannot be sustained legally.

Claims 2, 3 and 5 depend, either directly or indirectly, from independent claim 1, which has been shown to be allowable over the prior art reference. Accordingly, claims 2, 3 and 5 are also allowable by virtue of their dependency from the allowable base claim, as well as the additional features recited therein. Applicant submits that the reason for the rejection of claims 2, 3 and 5 has been overcome and respectfully requests withdrawal of the rejection and allowance of those claims.

With respect to claim 4, it is respectfully submitted that Wynblatt is cited to allegedly show other features in Applicants' claim, but is not cited to cure deficiencies in Tso with respect to claim 1 as discussed hereinabove. Since Wynblatt fails to cure the deficiencies in Tso with respect to features in claim 1 and those features are recited in claim 4, this claim is also distinguishable over the prior art of record at least for those reasons. Applicant submits that the reason for the rejection of claim 4 has been overcome and respectfully requests withdrawal of the rejection and allowance of the claims.

An earnest effort has been made to be fully responsive to the Examiner's correspondence and advance the prosecution of this case. In view of the above amendments and remarks, it is believed that the present application is in condition for allowance, and an early notice thereof is earnestly solicited.

Please charge any additional fees associated with this application to Deposit Account No. 14-1270.

Respectfully submitted,

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